FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Coming Commissioner as a Petition for Special Exception for the property located on the northeast corner of the intersection of Baltimore National Fike and Nuwood Drive, more commonly known as the site of the Pike Park Plaza. The Petition is filed by the subject property owners, Jerome A. Slegel, et al, and Discovery Zone Limitand Partnership, Lessee. Relief is requested, pursuant to Section 236.4 of the Baltimore County Moning Requiations (B.C.Z.R.), to allow an arcade on the subject site, split zoned, B.R. and B.R.-C.S.2. The subject property and relief sought are more particularly shown on the site plan to accompany the Petition for Special Exception, marked as Petitioner's Exhibit No. 1. Appearing at the requisite public hearing held for this case was Wil-

the Rerman on behalf of the property owner. Also appearing was Cheryl Minzer, District Manager for the Mid Atlantic District of the Discovery Home Limited Fartnership and Neil J. Tucker. Richard L. Smith, who is employed with KCI Technologies, Inc., the engineering firm which prepared the plan, also appeared. The Petitioner was represented by G. Paige Windert, Esquire. There were no Protestants present.

Thettered testimony and evidence presented was that the subject site 11.13 acres in size and abuts the Baltimore National Pike (U.S. Route 40 west), not far from its intersection with Rolling Road. The property is

presently in use as a neighborhood shopping center for many years. As the site plan notes, the property enjoys an extensive zoning history. It has been the subject of several zoning cases beginning with an initial Order dated December 1, 1949. Since that time, the property has come before this office on a number of occasions, for parking variances, sign variances and special exceptions, to permit specific uses. The matter now comes before me to consider a Petition for Special Exception for a Discovery Zone Center to be located on this site. This is the third Discovery Zone activity project implemented in Baltimore County. The other two have also come before me under Petitions for Special Exception and I am well familiar with this proposed use. Discovery Zone is a business which is geared for young children under the age of 12 and their families, and does not attract a teenage or young adult crowd. It is clearly an activity geared for young chiluren. It provides a setting to promote physical activities with a wide range of games and equipment. The facilities also provide for pizza parties, birthday parties and the like.

Nonetheless, this business falls within the definition of an arcade as contained in Section 101 of the B.C.Z.R. Therein an arcade is defined as "a use of a building in which five (5) or more pinball machines, video games or similar player operated amusement devices are maintained". Although there is no doubt that the drafters of the B.C.Z.R. envisioned arcades as video game centers, the definition does technically fit the proposed use here. However, it is important to note that the atmosphere provided at the Discovery Zone will be family oriented and geared for small children, as opposed to teenagers and young adults. Nonetheless, the Petitioner must satisfy the standards set forth in Sections 502.1 and 423 of the B.C.Z.R. in order for the use to be permitted.

- 2-

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at and Nuwcod Drive (Pike Park Plaza)

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached

hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Battimore County, to use the

an arcade pursuant to Section 236.4 of the Baltimore County Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, poeting, etc., upon filing of this petition, and further agree to and

ere to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Property is to be posted and advertised as prescribed by Zoning Regulations.

NE intersection of Baltimore National Pike

which is presently zoned BR & BR-CS-2

It is clear that the B.C.Z.R. permits the use proposed in a B.R. and B.R.-C.S.2 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined whether the conditions as delineated by Section 502.1 are satisfied by the Petitioner.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 291 Md. 1, 432 A2d 1319 (1981).

The proposed use will not be detrimental to the health, safety or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this  $\frac{28}{2}$  day of December, 1993 that, pursuant to a Petition for Special Exception, approval to allow an arcade in a B.R. and B.R.-C.S.2 zone,

- 3-

be and is hereby GRANTED, subject, however, to the following restriction which is a condition precedent to the relief granted herein:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware. that proceeding at this time is at its own risk until such time as the 30 day appellate process. from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

> Zoning Commissioner for Baltimore County

**Baltimore County Government** Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

December 27, 1993

Paige Wingert, Esquire Robert A. Hoffman, Esquire Venable, Baetjer and Howard 210 Allegheny Avenue Towson, Maryland 21204

> RE: Petition for Special Exception Case No. 94-210-X Property: 6500 block Balto. National Pike (Pike Park Plaza) Legal Owner: Jerome A. Siegel, et al Lessee: Discovery Zone Limited Partnership

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Exception has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Zoning Commissioner

cc: Cheryl Mizzer, District Mgr., Discovery Zone Ltd. Partnership cc: Mr. William Berman, 7941 Long Meadow Road, 21208

Type or Print Name) Venable, Baetjer & Howard 210 Allegheny Avenue 494-6200 Towson, Maryland 21204

Richard A. Ramentol

Robert A. Hoffman

Director of Real Estate

Azdress 65 Madison Avenue, Ste. 330

Morristown, New Jersey 07960

Discovery Zone Limited Partnership Jerome A. Siegel, et al. Corman & Silverman 15 W. 39th Street (212) 354-7554 New York, NY 10018 City Suc. 1
Name, Address and phone number of legal owner, correct purchaser or representative Robert A. Hoffman, Esquire Name 210 Allegheny Avenue Towson, Maryland 21204 494-6200

We do solemnly declare and affirm, under the penalties of perjury, that I/we are the

MEMERIED BY: JCM DATE (1-1)-43

ZONING DESCRIPTION 1.049 ACRE ± PARCEL AT PIKE PARK PLAZA 1ST ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

This description is for a Special Exception.

COMMENCING FOR THE SAME at the intersection of the center lines of Nuwood Drive, 70 feet wide and Baltimore National Pike, 150 foot wide, thence running on the centerline of said Pike,

- 1) Easterly by a curve to the left 170 feet more or less, said curve having a radius of 7,639.44 feet and a chord of South 67 degrees 24 minutes 13 seconds East 169.09 feet more or less, thence
- 2) North 22 degrees 38 minutes 52 seconds East 75 feet more or less to the POINT OF BEGINNING, which is the south east corner of the property known as Pike Park Mall, thence running through the lands known as Pike Park Mall, 10 courses
- 1) North 22 degrees 38 minutes 52 seconds East 179.00 feet more
- 2) North 20 degrees 01 minutes 01 seconds East 80.99 feet more or
- 3) North 69 degrees 58 minutes 59 seconds West 33.35 feet more or
- 4) North 20 degrees 01 minutes 01 seconds East 169.75 feet more or less

Zoning Description Pike Park Plaza KCI Job No. 01-93112 November 2, 1993 Page 2

South 69 degrees 58 minutes 59 seconds East 108.92 feet more

- South 20 degrees 01 minutes 01 seconds West 191.90 feet more
- South 69 degrees 58 minutes 59 seconds East 40.00 feet more or
- less South 20 degrees 01 minutes 01 seconds West 206.44 feet more
- or less North 69 degrees 58 minutes 59 seconds West 85.00 feet more or
- less 10) South 22 degrees 38 minutes 52 seconds West 32.61 feet more or
- less to intersect Baltimore National Pike, thence running on said
- 11) Westerly by a curve to the right 37.32 feet more or less to the POINT OF BEGINNING, said curve having a radius of 7564.44 feet more or less and a chord of North 67 degrees 54 minutes 05 seconds West 37.32 feet more or less.

Containing 1.049 acres of land more or less.

AP/dgj KCI Job No. 01-93112

November 2, 1993

200000 DEPARTMENT OF BALTIMORE COUNTY 91-210- #

Posted for Special Free from	Date of Posting 11/29/93
Politicar J. Stage Latel x Winners 20	22 Limited Portraction
Nu wood Daila	Pite: -NE/con Bolle Hot Pite
Location of Signer Tanky 1000 Way 1000	fronty bring mand
Remarks:	
Pooled by Althou	Date of return: 12/3/92
Runber of Signe:	

## CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of \_\_\_\_\_\_ success: weeks, the first publication appearing on  $\frac{|U|}{2}$ , 19

THE JEFFERSONIAN.

LEGAL AD. - TOWSON

**Baltimore County Government** Office of Zoning Administration and Development Management



111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

December 7, 1993

Robert A. Hoffman, Esquire Venable, Baetjer & Howard 210 Allegheny Avenue Towson, Maryland 21204

> RE: Case No. 94-210-X, Item No. 210 Petitioner: Jerome A. Siegel, et al Petition for Special Exception

Dear Mr. Hoffman:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on November 17, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

Zone Luto Drz. 65 MADISON Aug. Ste. 330 No. 100 Portion Procession No. 200 Procession No.

D2AD2#D267KICHRC

Maryland Department of Transportation State Highway Administration

O. James Lighthizer Hal Kassoff Administrator

11-24-93

Re: BALTIMORE CO.
Item No.: + 210 (JCM)

Development Management County Office Building Room 109 111 W. Chesapeake Avenue Towson, Maryland 21204

Zoning Administration and

Dear Ms. Minton:

Ms. Charlotte Minton

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Baltimore County Government Office of Zoning Administration and Development Management

111 West Chesapeake Avenue

Towson, MD 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be accessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

For newspaper advertising:

POBERT HOFFMAN, ESO 210 ALLEGHENY Arc. Touson, Md. 21204

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

The Office of Planning and Zoning has no comments on the following petition(s):

If there should be any further questions or if this office can provide additional

information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Item Nos. 200, 202, 204, 205, 206, 207, 208, 209, 209, 213, 216 and 217.

Arnold Jablon, Director

Development Management

FROM: Pat Keller, Deputy Director

PK/JL:lw

BAC. 202/PEONE/EAC1

Zoning Administration and

Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

(Revised 04/09/93)

DATE: November 29, 1993

Baltimore County Government Office of Zoning Administration and Development Management



(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesepeake Avenue in Townon, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-210-X (Item 210) 6500 block of Baltimore National Pike - (Pike Park Plaza)

NEC Baltimore Mational Pike and Munrood Drive lat Election District - 1st Councilmenic Logal Onwer(a): Jerome A. Siegel, et al Contract Purchaser(s): Discovery Zone Limited Partnership

HEARING: FRIDAY, DECEMBER 17, 1993 at 11:00 a.m. in Rm. 106, County Office Building.

Special Exception for an arcade.

11 West Chesapeake Avenue

KOVEMBER 24, 1993

Towson, MD 21204



cc: Jerome A. Siegel, et al Discovery Zone Limited Partnership Robert A. Hoffman, Esq.

MOTES: (1) ZOWING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE. (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Baltimore County Government Department of Permits and Licenses



(410) 887-3610

111 West Chesapeake Avenue Towson, MD 21204

Arnold Jablon

Director

Zoning Administration and Development Management

Baltimore County Office Building Towson, MD 21204

ZONING AGENDA:

MEETING OF NOVEMBER 29, 1993

Property Owner: Jerome A. Siegel, et al Location: #6500 Block Baltimore National Pike -- Fike Park Plaza Item No.: +210 (JCM)

Comment: 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of

Property Owner: Round Hollow Limited Partnership Location: #1015 York Road Item No.: +215 (JJS)

Comment: 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of

Property Owner: Giles Building and Development Company Location: #6918 Ridge Road - Fuller Medical Center Item No.: +216 (MJK)

Comment: 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of

Property Owner: Frost Brothers Development Corporation Location: #5 Russell Frost Court Item No.: 217 (JRF)

Comment: 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

Property Owner: Manor Farm Homes, Inc. Location: #8 Clarion Court

Item No.: 206 (JRF) Comment: 7. The Fire Prevention Bureau has no comments at this time.

Property Owner: Arthur Smith & Arlene Smith Location: #950 Seneca park Road Item No.: 207 (MJK)

Printed with Buybean Ini

Comment: 7. The Fire Prevention Bureau has no comments at this time. Baltimore County Government Property Owner: Neal Jacobs and Constance Lynn Jacobs Office of Zoning Administration location: #11222 & #11224 Ridgeway Avenue South and Development Management Item No.: 208 & 209 (MJK) Comment: 7. The Fire Prevention Bureau has no comments at this time. PETITIONER(S) SIGN-IN SHEET PLEASE PRINT CLEARLY Property Owner: Terry A. Greenwood and Joan Greenwood Location: #4020 North Point Road Item No.: +211 (JJS1) 114 West Chesapeake Avenue Towson, MD 21201 (410) 887-3353 KCI FORTH LARL DEIVE HOUT VACLEY 21030 Comments: 7. The Fire Prevention Bureau has no comments at this December 10, 1993 Property Owner: Sophia Gertrude Sauerbrey & Norris Fridinger, Personal Representative Robert A. Hoffman, Esquire Location: Beldale Courts
Item No.: +212 (WCR) Venable, Baetjer & Howard Comments: 7. The Fire Prevention Bureau has no comments at this time. 210 Allegheny Avenue Towson, Maryland 21204 Property Owner: Richard Borschuk Location: #3317 Whitesway Road RE: Case No. 94 210-X, Item No.210 Petition for Special Exception Item No.: \*213 (JLL) NE Intersection of Baltimore National Pike Comments: 7. The Fire Prevention Bureau has no comments at this time. and Nuwood Drive (Pike Park Plaza) Property Owner: Stephen Curtis McElroy & Donna Kimberly McElroy Dear Mr. Hoffman: Location: #7408 Park Drive Enclosed are copies of comments received from the Fire Prevention Item No.: 214 (JJS) Comments: 7. The Fire Prevention Bureau has no comments at this time. Bureau on December 10, 1993 for the above-referenced case. If there are any questions, please do not hesitate to call me at Gentlemen: 887-3391. Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments are applicable and required to be corrected or incorporated into the final plans for the property. Fire Frevention Bureau
Lieutenant Robert Sauerwald, 887-4880 Enclosure Printed with Soybean Inkon Printed with Soybean Inkon Printed Paper FBRAGG

